

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL D. CARVER,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 1:21-cv-869

HON. JANET T. NEFF

ORDER

Plaintiff Michael Carver filed this lawsuit alleging that Defendant committed medical malpractice. Defendant filed a Motion to Dismiss (ECF No. 19) arguing that Plaintiff failed to administratively exhaust his claim before filing this action, as required by the Federal Tort Claims Act (FTCA). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R) on February 11, 2022, recommending that this Court grant the motion and dismiss Plaintiff's complaint without prejudice (ECF No. 35). The R & R. was duly served on the parties. No objections have been filed.¹ *See* 28 U.S.C. § 636(b)(1). Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 35) is APPROVED and ADOPTED as the Opinion of the Court.

¹ After the Magistrate Judge issued the R & R on February 11, 2022, the Court received Plaintiff's unauthorized sur-reply (ECF No. 36). The sur-reply is dated February 9, 2022—two days before the R & R. Thus, Plaintiff's sur-reply cannot be considered an objection to the R & R. Plaintiff does not specifically address any portion of the Magistrate Judge's analysis. In addition, nothing in the sur-reply changes the Court's view that the recommendation should be adopted.

IT IS FURTHER ORDERED that the Motion to Dismiss (ECF No. 19) is GRANTED and Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE.

A Judgment will be entered consistent with this Order.

Dated: March 9, 2022

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge